

DLB/jp

Attorney's Docket No.: 07148-032001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Lorin DeBonte, et al. Art Unit : 1638
Serial No. : 08/572,027 Examiner : Benzion
Filed : December 14, 1995
Title : PLANTS HAVING MUTANT SEQUENCES THAT CONFER
ALTERED FATTY ACID PROFILES

RECEIVED

Commissioner for Patents
Washington, D.C. 20231

MAY 17 2001

OFFICE OF PETITIONS

DECLARATION OF DAVID L. BIEK IN SUPPORT OF PETITIONS
PURSUANT TO 37 C.F.R. §1.48(a) AND §1.183

I, David L. Biek, declare as follows:

1. I am employed as a Senior Attorney by Cargill, Incorporated ("Cargill").
2. Cargill is the assignee of the above-identified application, U.S.S.N. 08/572,027, by virtue of an assignment recorded in the U.S. Patent and Trademark Office on September 20, 1996 at Reel 8143, Frame 0085.
3. Pursuant to 37 C.F.R. § 1.48(a), inventorship in the U.S.S.N. 08/572,027 application is being corrected to name Lorin R. DeBonte, Guo-Hua Miao and Zhegong Fan, rather than the previously named Lorin R. DeBonte, Zhegong Fan and Willie H.T. Loh.
4. Guo-Hua Miao is an employee of E.I. du Pont de Nemours and Company ("DuPont"). Cargill determined that inventorship for the U.S.S.N. 08/572,027 application should be corrected to add Mr. Miao and remove Mr. Loh. Accordingly, on June 23, 2000, a meeting was held between representatives of DuPont and representatives of Cargill. I was present at that meeting. One of the

subjects discussed at that meeting was correction of inventorship for the U.S.S.N. 08/572,027 application to add Mr. Miao as an inventor.

5. Cargill and DuPont engaged in follow-up discussions after the June meeting. On September 15, 2000, I sent Lynne Christenbury, an attorney at DuPont, a letter which is attached as Exhibit A. Enclosed with my letter to Ms. Christenbury was a copy of the U.S.S.N. 08/572,027 application. I also enclosed a letter addressed to Mr. Miao and associated papers and signature documents. A copy of the letter to Mr. Miao is attached as Exhibit B. The Exhibit A and B letters have been redacted to remove confidential information that is not relevant to correction of inventorship.

6. I requested that Ms. Christenbury forward Mr. Miao's letter, the enclosed application, associated papers and signature documents to him. I requested that the Declaration under 37 C.F.R. § 1.63 ("Declaration") and Petition to Correct Inventorship under 37 C.F.R. § 1.48(a) ("Petition") enclosed with my letter be signed by Mr. Miao and returned to me or Ronald C. Lundquist. As indicated in my letter to Ms. Christenbury, I informed DuPont that if the signed Declaration and signed Petition of Mr. Miao were not received by September 30, 2000 Cargill would be compelled to treat Mr. Miao as an uncooperative inventor.

7. On at least three occasions between September 30, 2000 and February, 2001, I inquired of Ms. Christenbury by telephone whether or not Mr. Miao would be returning a signed Declaration and a signed Petition for the patent application. I received no affirmative response from her indicating that Mr. Miao would sign the Declaration and Petition unconditionally, and I have not received

to date, from Mr. Miao or Ms. Christenbury, either the signed Declaration or the Petition. Nor has Mr. Miao or Ms. Christenbury indicated that they are not in receipt of the application, Declaration, or Petition.

8. Mr. Miao has had full opportunity to sign the Declaration and the Petition as an inventor for the U.S.S.N. 08/572,027 application, which he has failed to do.

9. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Date: April 11, 2001

David L. Biek

David L. Biek
Reg. No. 33,647



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September 15, 2000

VIA COURIER

Lynne M. Christenbury, Esq.
Legal Department
E. I. du Pont de Nemours and Company
1007 Market Street
Wilmington DE 19898

RE: U.S.S.N. 08/572,027; 09/064,277;

Dear Lynne:

As mentioned by Cargill at our June 23, 2000 meeting in Wilmington,

Lynne M. Christenbury, Esq.
September 15, 2000
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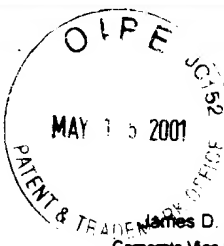
we enclose documents to correct inventorship for those applications, a copy of each patent application in its current form, a list of art cited to the PTO, as well as Inventorship Declarations and _____ for each application. Please provide these documents, and the accompanying cover letter, to Guo-Hau for review and signature. Please return the executed Inventorship Declarations and _____ to Ron before September 30th. If we do not receive these signed documents by September 30th, we will be compelled to treat Guo-Hau as an "uncooperative inventor" in accordance with Patent Office procedure.

Please call me with any questions that you may have.

Very truly yours,

A handwritten signature in dark ink, appearing to read "David L. Biek", with a horizontal line extending to the right.

David L. Biek



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David_Blek@cargill.com

September 15, 2000

Guo-Hau Miao
E. I. DuPont de Nemours & Company
Wilmington, DE 19880

RE: U.S. Patent Application Serial Nos. 08/572,027 (filed December 14, 1995),
09/064,277 (filed on April 22, 1998)
Plants Having Mutant Sequences Altered Fatty Acid Profiles
Cargill Ref Nos.: A21-535.10, A21-535.14

Dear Guo-Hau:

Based upon information available to us, a determination has been made that you are an inventor, along with other individuals, of pending claims in the applications filed by Cargill, Incorporated which are identified above. As a consequence of the inventorship determination, a change must be made in the named inventors on each of these pending applications. To effectuate the change in named inventors and to record ownership of the applications, I have enclosed the relevant application documents as well as certain documents that need to be filed with the U.S. Patent & Trademark Office for these applications.

The enclosed documents include a copy of the 08/572,027 application as filed
The 09/064,277 continuation has the
same text as the earlier application, so a copy of the continuation is not included.
Copies of amendments made to the claims and specifications of the applications
are also enclosed.

I have also enclosed documents that are to be filed with the U.S. Patent & Trademark Office with respect to these applications. First, I have enclosed a Petition to

Guo-Hau Miao
September 15, 2000
Page 2

Correct Inventorship, to be signed and dated by you, which state that the error in inventorship occurred without any deceptive intent on your part and indicates who the correct inventors are believed to be.

Second, the Patent & Trademark Office requires a declaration from each named inventor. I have enclosed a Declaration for each of the above-identified applications, to be signed and dated by you. This document also gives a Power of Attorney to the attorneys named in the document to work on your behalf in the prosecution of these applications before the U.S. Patent & Trademark Office.

Please review the enclosed documents and, if the Declaration and Petition documents are satisfactory, sign and date them where indicated.

After signing and dating, please return the Declaration, and Petition to me as soon as possible in the enclosed postage-paid Express Mail envelope.

Finally, the Declaration indicates that the inventors acknowledge the duty to disclose information that is material to patentability. The duty is a requirement of the U.S. patent laws and regulations. In order to comply with this requirement, we have enclosed a List of Information submitted to the U.S. Patent & Trademark Office for each application. Let me know if you are aware of any publications or articles other than those on the enclosed list that: 1) were published on or before the filing date of those applications; and 2) are material to patentability. It is not necessary to do a search. However, there is a continuing duty to disclose information. Thus, if you become aware in the future of any article that fall into the above category, please let me know. Feel free to contact me if you have any questions about this requirement.

As an inventor of the claimed subject matter of these applications, you may retain the application and amendment documents, and the list of information submitted to the Patent & Trademark Office. You may also retain a signed copy of the Declaration, Assignment and Petition documents. However, please be aware that all of the enclosed documents and information constitute CARGILL CONFIDENTIAL INFORMATION.

Guo-Hau Miao
September 15, 2000
Page 3

We do appreciate your cooperation in attending to these documents, and in letting us know if you are aware of any additional article that should be cited to the Patent & Trademark Office.

Please feel free to phone me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "David L. Biek", with a long horizontal flourish extending to the right.

David L. Biek